

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

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Plattsmouth Operations LLC d/b/a  
Prestige Care Center of Plattsmouth and  
Plattsmouth PHC Propco, LLC,

Case No. 8:23- cv-545

Plaintiffs,

v.

General Star Indemnity Company,

Defendant.

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**NOTICE OF REMOVAL**

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Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant General Star Indemnity Company (“GSIC”) gives notice of the removal of the above-captioned action to the United States District Court for the District of Nebraska, and as grounds for removal states:

1. **Exhibit 1** attached hereto is a complete copy of all process, pleadings, and orders in this matter that have been served upon, or otherwise received by, GSIC.
2. On August 25, 2023, Plaintiffs filed their Complaint in the District Court of Cass County, Nebraska. (*See* Ex. 1 p. 1.)
3. Under 28 U.S. C. § 1441(a), venue is proper in this District because Cass County, Nebraska is in this District.
4. GSIC first received the Complaint on November 10, 2023. (*See* Ex. 1 p. 20)
5. Under 28 U.S.C. § 1446(b), with exceptions that do not apply here, a Notice of Removal must be filed within 30 days of the removing party’s receipt of the Complaint.

6. When the end of that time limit falls on a weekend or a court holiday, Fed. R. Civ. P. 6(a)(1)(C) extends the filing deadline to the end of the next day that is not a weekend or a court holiday.

7. The 30th day after GSIC's receipt of the Complaint was Sunday, December 10, 2023. The deadline for filing this Notice of Removal is therefore extended to the end of the day on Monday, December 11, 2023.

8. This Notice of Removal is timely because it is being filed before the end of the day on Monday, December 11, 2023.

9. As alleged in the Amended Complaint, Plaintiffs Plattsmouth Operations LLC d/b/a Prestige Care Center of Plattsmouth and Plattsmouth PHC Propco, LLC are Nebraska limited liability companies. (Ex. 1 p. 22 ¶ 1.)

10. "An LLC's citizenship, for purposes of diversity jurisdiction, is the citizenship of each of its members." *OnePoint Solutions, LLC v. Borchert*, 486 F.3d 342, 346 (8th Cir. 2007).

11. Plattsmouth Operations LLC's Certificate of Organization, attached hereto as **Exhibit 2**, identifies a single member at an address in Lawrence, NY. Plattsmouth Operations LLC is therefore a citizen of New York for purposes of diversity jurisdiction.

12. Plattsmouth PHC Propco LLC's Certificate of Organization, attached hereto as **Exhibit 3**, also identifies a single member at an address in Lawrence, NY. Plattsmouth PHC Propco LLC is also therefore a citizen of New York for purposes of diversity jurisdiction.

13. GSIC is incorporated in Delaware and has its principal place of business in Connecticut. GSIC is therefore a citizen of Delaware and Connecticut for diversity jurisdiction purposes.

14. Complete diversity of citizenship exists because GSIC is a citizen of Delaware and Connecticut, but no Plaintiffs are citizens of Delaware or Connecticut.

15. The Amended Complaint seeks nonmonetary relief. (Ex. 1 pp. 26-27.) Per 28 U.S.C. § 1446(c)(2)(A), it is therefore permissible for this Notice of Removal to assert the amount in controversy.

16. This matter arises from an insurance claim for which GSIC has denied coverage. Plaintiffs' dispute the coverage determination and Plaintiffs' contractor has submitted a repair estimate for \$814,704.44, which is attached hereto as **Exhibit 4**. The amount in controversy therefore exceeds \$75,000.

17. The United States District Court for the District of Nebraska has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1332(a)(1) and 1441 because complete diversity of citizenship exists and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

18. As required by 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will promptly be given to Plaintiffs, and a Notice of Filing Notice of Removal will promptly be filed in the District Court of Cass County, Nebraska.

19. GSIC has filed a Civil Cover Sheet and paid the required filing fee.

20. GSIC has good and sufficient defenses to this action.

21. GSIC makes no admission of liability and expressly reserves the right to raise all defenses and objections to Plaintiff's claims after the action is removed to this Court, including, without limitation, defenses and objections based on insufficient service of process, and/or the legal sufficiency of Plaintiff's pleadings.

### **DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38(b) and Local Rule 40.1(b), GSIC hereby demands a jury trial on all issues so triable to be held in Omaha.

December 11, 2023

By: /s/ MaKenna J. Stoakes  
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***Attorneys for Defendant  
General Star Indemnity Company***

### **CERTIFICATE OF SERVICE**

I hereby certify that on December 11, 2023, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and have served the same on Plaintiffs Plattsmouth Operations LLC d/b/a Prestige Care Center of Plattsmouth and Plattsmouth PHC Propco, LLC via email to their counsel of record, pursuant to agreement of counsel to accept service by that means:

/s/ Meg Spitzmiller